THE HONOURABLE SHRI JUSTICE R.SUBHASH REDDY

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WRIT PETITION No. 3825 OF 2006

Between:

M/s. Kondapalli Transport Company

Limited represented by its Executive

Director, Srinivas Kondapalli,

S/o Satyanarayana Rao, Hindu,

Aged about 36 years, II-X-Road,

Jawahar, Autonagar, Vijayawada.

… Petitioner

And

The Assistant Provident Fund

Commissioner, Sub-Regional Office,

Padmavathi Building, Laxmipuram,

Guntur and another.

… Respondents.

ORDER:

The petitioner, a Transport Company, filed this writ petition questioning the orders dated 18.10.2002 passed by the Employees Provident Fund Appellate Tribunal, Nehru Place, New Delhi.

The assistant/Regional Provident Fund Commissioner, Guntur has issued orders

under Section 8F of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 determining the dues in respect of the establishment of the petitioner and demanded to remit a sum of Rs.4,68,745/-. As against the said order, the petitioner preferred appeal before the Employees Provident Fund Appellate Tribunal and meanwhile, it had also filed a writ petition before this court to waive the payment, which was a condition precedent to entertain the appeal. This court has ordered interim suspension on payment of 50% of the amount due and now it is not in dispute that 50% of the demanded amount has already been paid. But, however, the appeal was dismissed for default on 18.10.2002 and it is stated in the affidavit filed in support of the writ petition that the petitioner has already filed an application to set aside the default order on 30.1.2006. However, on the ground that the appellate tribunal is not functioning presently, the petitioner has approached this court.

Heard learned counsel for the petitioner and Sri R.N.Reddy, learned Standing Counsel for the Provident Fund.

Now the fact remains that in view of the orders of this court, the petitioner has already paid half of the amount demanded in order dated: 4.10.2002 of the Assistant/Regional Provident Fund Commissioner, A.P. Guntur. The appeal filed by the petitioner before the Employees Provident Fund Appellate Tribunal was not decided on merits, but, was dismissed for default and though the petitioner made an attempt to explain the reasons, but, inasmuch as the application filed by the petitioner for setting aside the default order is pending consideration, it is for the appellate authority to consider the application dated 31.1.2006. The writ petition, therefore, is disposed of directing the appellate authority to dispose of the application dated 31.1.2006 filed by the petitioner for restoration of appeal and pass appropriate orders, as expeditiously as possible, preferably within a period of three months from the date of the functioning of the appellate Tribunal, and, till then, the respondents are directed not to enforce the order dated 4.10.2002 passed in proceedings No. AP/GNT/21195/ENF-II/B-4/2002/2075 to realize the balance amount due.

Subject to the above direction, the writ petition is disposed of.

A copy of this order shall be sent to the Employees Provident Fund Appellate Tribunal.

2006. **(R.SUBHASH REDDY, J.)**

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